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Judicial Tenure Commission

STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

Formal Complaint No. 95

Brenda K. Sanders
36th District Court
421 Madison St Ste 5067
Detroit, MI 48226

AMENDED ANSWER TO THE
AMENDED FORMAL COMPLAINT

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**RESPONDENT'S *AMENDED* ANSWER TO
THE AMENDED FORMAL COMPLAINT**

NOW COMES Respondent, Hon. Brenda K. Sanders, who states in answer to the allegations in Petitioner's Amended Formal Complaint:

1. Admitted.
2. Admitted, although Respondent is protected by the full panoply of rights guaranteed under the laws of the State of Michigan, Federal Law, the Michigan Constitution of 1963, and the United States Constitution.

COUNT I – LACK OF MENTAL FITNESS

3. Denied that Respondent sent a letter, as it was hand delivered under the auspices that it was the private, privileged communication from Respondent who believed it was confidential. Further, this communication was privileged as attorney communication and confidential communication, as well as under the crime reporting privilege under Michigan law. Respondent asserts all rights to said privileges herein.
4. Neither admitted nor denied as this communication was privileged as attorney communication and confidential communication, as well as under the crime reporting privilege under Michigan law. Respondent asserts all rights to said privileges herein.
5. Neither admitted nor denied as this communication was privileged as attorney communication and confidential communication, as well as under the crime reporting privilege under Michigan law. Respondent asserts all rights to said privileges herein.
6. Admitted.
7. Denied that Respondent agreed to the date. Any discrepancy is due to the fault of miscommunication by the attorneys representing Respondent at that time.
8. Admitted. However, the JTC originally supplied three arbitrary dates which did not work with the Respondent's schedule; further, upon information and belief Respondent had surgery scheduled for that day and sought to reschedule the appointment.
9. Admitted.
10. Admitted. However, the failure to attend the June 4, 2014 appointment was not the fault of Respondent. Respondent unable to attend the examination in Lansing due to a transportation issue. Further, the failure to attend the

June 12, 2014 appointment was not the fault of Respondent as she was contacted the day prior by her sick and elderly mother's caregiver and she was instructed to go to South Carolina to be with her mother right away.

11. Admitted.
12. Admitted.
13. Admitted; however, the reason for this was that there was no agreement in place to tape/video record the examination to protect Respondent's rights.
14. Admitted.
15. Denied because Respondent did not agree to that date.
16. Admitted in that Dr. Miller's report stated the conclusion listed herein; however, Respondent contends that the report is irrelevant as it fails to meet the commonly accepted medical criteria for evaluation of patients and has no factual or clinical relevance. Further actual evaluation would dispel all of Dr. Miller's contentions. Finally, the examination is without basis or merit as Dr. Miller never physically or personally examined Respondent in any way and based his opinions solely from extraneous documentation.
17. Admitted in that Dr. Miller's report stated the conclusion listed herein; however, Respondent contends that the report is irrelevant as it fails to meet the commonly accepted medical criteria for evaluation of patients and has no factual or clinical relevance. Further actual evaluation would dispel all of Dr. Miller's contentions.
18. Denied as untrue.

COUNT II – FRAUD IN SECURING A LONG TERM LEAVE OF ABSENCE

19. Admitted.

20. Denied. Respondent never represented anything about her request for a medical leave of absence to Judge Kenneth King. Respondent made oral representations to Deborah Green about potentially having the surgery over the holidays to curtail the time period that Respondent was off from work.
21. Neither admitted nor denied as Respondent does has no personal knowledge of the inner machinations of why the Court granted her request; however, Respondent believes this to be true.
22. Denied as patently false.
23. Denied as patently false.
24. Admitted.
25. Denied as patently false. Further Respondent brought records and X-rays to the first examination, as well as signing HIPAA releases for further documentation, and rescheduled the appointment as well.
26. Admitted.
27. Admitted that Dr. Mendelsohn made the conclusions; however, Respondent contends that his conclusions are without merit. Further, the report and supporting documentation specifically notes that the doctor did not know the specific duties of being a judge; noted that the pain level was 7/10; that knee replacement was an option; that there was bone-on-bone contact; and that he thought a judge's duties were to merely to "sit and listen to people."
28. Denied as patently false.

COUNT III – FAILURE TO COOPERATE WITH THE JTC

29. Neither admitted nor denied as there is an apparent discrepancy in the date of the request as paragraph 6 of the complaint states the request was March 11, not March 31.
30. Admitted.
31. Admitted. However, the appointment was scheduled the same day as a surgical appointment with Dr. Gilyard and was rescheduled.
32. Admitted. However, the JTC scheduled an appointment with a doctor that was 150 miles away. Respondent did not have the financial means to make a trip that far away at that time
33. Admitted. However, the failure to attend the June 4, 2014 appointment was not the fault of Respondent.
34. Admitted.
35. Admitted. Further, the failure to attend the June 12, 2014 appointment was not the fault of Respondent as the June 12th appointment was scheduled with only 3 or 4 days notice. The attorney failed to give Respondent adequate notice of the appointment. Additionally, Respondent was contacted the day prior by her sick and elderly mother's caregiver and she was instructed to go to South Carolina to be with her mother right away.
36. Denied. Respondent contends this was not a reasonable request.
37. Admitted.
38. Admitted.
39. Admitted.
40. Admitted.

41. Admitted.

COUNT IV – MISREPRESENTATIONS

42. Admitted that Respondent was contacted only a few days prior to the appointment.

43. Neither admitted nor denied. Respondent does not recall going over any answers to the 28 day letter with prior Attorney Einhorn or Attorney Burke. Respondent usually sat down and reviewed the answers and indicated if their proposed responses were true and does not recall making some of these responses nor approving the responses. Further the statement, if Respondent even made such a statement to the attorneys, was a truthful understanding of the facts and circumstances available to Respondent at the time that the statement was made and any discrepancy was due to imperfect knowledge or memory, innocent misunderstanding, inadvertence, or excusable neglect, or attorney mistake and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation. Respondent provided a portion of medical records, MRI disc, and x-rays on her first visit to Dr. Mendelson. Further, Respondent

44. Denied as untrue. Respondent provided a portion of medical records, MRI disc, and x-rays on her first visit to Dr. Mendelson. Additionally, Respondent's attorneys were given copies of these documents prior to the initial examination.

45. Neither admitted nor denied. Respondent does not recall going over any answers to the 28 day letter with prior Attorney Einhorn or Attorney Burke.

Respondent usually sat down and reviewed the answers and indicated if their proposed responses were true and does not recall making some of these responses nor approving the responses. Further the statement, if Respondent even made such a statement to the attorneys, was a truthful understanding of the facts and circumstances available to Respondent at the time that the statement was made and any discrepancy was due to imperfect knowledge or memory, innocent misunderstanding, inadvertence, or excusable neglect, or attorney mistake and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation. Respondent provided a portion of medical records, MRI disc, and x-rays on her first visit to Dr. Mendelson. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.

46. Admitted in part; denied in part.. Respondent does not recall going over any answers to the 28 day letter with prior Attorney Einhorn or Attorney Burke. Respondent usually sat down and reviewed the answers and indicated if their proposed responses were true and does not recall making some of these responses nor approving the responses. Further the statement, if Respondent even made such a statement to the attorneys, was a truthful understanding of the facts and circumstances available to

Respondent at the time that the statement was made and any discrepancy was due to imperfect knowledge or memory, innocent misunderstanding, inadvertence, or excusable neglect, or attorney mistake and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation. Respondent indeed provided a portion of medical records, MRI disc, and x-rays on her first visit to Dr. Mendelson. Additionally denied in that Respondent did know why the examination was rescheduled because it was not clear to Dr. Mendelson's office as to what party was paying for the examination. The JTC had not provided a pay voucher to Dr. Mendelson's office and respondent was told that the examination would be rescheduled. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation. Additionally, Respondent appeared for an examination over Easter weekend on April 17, 2014 which was cancelled without warning.

47. Denied. Respondent did provide records to Dr. Mendelson's office and also signed a medical authorization to obtain more records from her doctors on the first date that she appeared for the examination. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, or excusable neglect,

or attorney mistake and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.

48. Admitted that the answer says that however the prior attorneys prepared the Answer and Respondent does not recall authorizing such answers. Respondent provided Dr. Mendelson with medical records and the above-referenced films on her first appointment. The answer that was given to that question is was inaccurate. Respondent had no knowledge of such an answer and nor did Respondent authorize such an answer. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, or excusable neglect, or attorney mistake and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.
49. Admitted. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.
50. Admitted that the surgery was initially scheduled for the same day but was then rescheduled. Dr. Gilyard's records will document the scheduled date. Respondent also provided a letter to the attorney as proof of the scheduled surgery. Further, if the Respondent's answer in anyway differs from

previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.

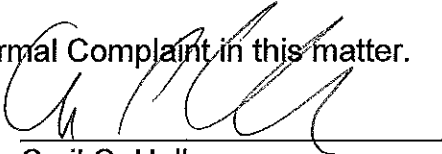
51. Admitted. However, by the time of the examination Respondent was already under a course of steroids and other treatment which had shown improvement. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.

52. Denied as untrue. Respondent never advised Dr. Mendelson of anything of the sort. Dr. Mendelson's examination lasted for about six or seven minutes and was not very detailed at all. The facts by Dr. Mendelson are incorrect. He wrote on the back of some sheet of paper and took very few notes. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.

53. Denied that the above statements were made and thus Respondent's statements cannot be false.
54. Denied. The response of the 28 day letter was filed by the prior attorneys. Respondent does not recall personally making any of those statements specifically. Further, if the Respondent's answer in anyway differs from previous or later answer it is because one or both statements were based on imperfect knowledge or memory, innocent misunderstanding, inadvertence, attorney mistake, or excusable neglect and was in no way an attempt to mislead the Commission or otherwise thwart the purposes of this investigation.
55. Denied as untrue. Respondents did not make any false statements to the Commission or the attorneys that were representing her at that time.

Respondent's conduct does not amount to nor constitute any of the conduct listed in subparagraphs (a) through (o) of the Amended Formal Complaint in this matter.

Dated: October 28, 2014


Cyril C. Hall
Attorney for Respondent